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10 Attorneys for Defendant
American Airlines, Inc.

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13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

15 KATHLEEN HANNI, individually and on
16 behalf of all others similarly situated,

17 Plaintiff,

18 vs.

19 AMERICAN AIRLINES, INC., and DOES 1
20 through 20, inclusive,

21 Defendants.

CASE NO. C08-00732 CW

**NOTICE OF MOTION AND MOTION
TO DISMISS PLAINTIFF'S FIRST
AMENDED COMPLAINT BY
DEFENDANT AMERICAN AIRLINES,
INC.**

Fed. R. Civ. Pro. 9(b) & 12(b)(6)

Date: July 10, 2008
Time: 2:00 p.m.
Courtroom: 2, 4th Floor

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24 PLEASE TAKE NOTICE that on July 10, 2008, at 2:00 p.m. in the courtroom of the
25 Honorable Claudia Wilken at the United States District Courthouse located at 1301 Clay Street,
26 Oakland, California, defendant American Airlines, Inc. ("American"), will and hereby does move
27 pursuant to Federal Rules of Civil Procedure 12(b)(6) to dismiss plaintiff's First Amended Class
28 Action Complaint for False Imprisonment, Intentional Infliction of Emotional Distress,

1 Negligence, Breach of Contract, Deceit/Fraud, Conversion, Civil Conspiracy, and RICO (the
2 "FAC") for failure to state a claim upon which relief can be granted.

3 American makes this motion on the grounds that:

4 (1) Field preemption by the Federal Aviation Act of 1958 ("FAA") and its implementing
5 Federal Aviation Regulations ("FARs"), which preempt the field of passenger health and safety
6 onboard commercial aircraft;

7 (2) Express preemption under the Airline Deregulation Act ("ADA"), which prohibits
8 states from "enact[ing] or enforc[ing] a law, regulation, or other provision having the force and
9 effect of law related to a price, route, or service of an air carrier," 49 U.S.C. § 41713(b)(1);

10 (3) The FAC fails to state a claim upon which relief can be granted pursuant to California
11 and Texas state law;

12 (4) Plaintiff's alleged deceit/fraud and civil conspiracy claims fails to meet the
13 particularity requirements of Fed. R. Civ. P. 9(b); and
14

15 (5) Plaintiff's alleged RICO claim fails to state a claim upon which relief can be granted
16 for failing to allege any "pattern of racketeering activity".
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18 This motion is based on this Notice of Motion and Motion, the Memorandum of Points and
19 Authorities, and (Proposed) Order filed herewith, and upon other such matters as may be presented
20 to this Court.

21 DATED: June 5, 2008

COOPER, WHITE & COOPER LLP

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23 By: 

Jie-Ming Chou

Attorneys for Defendant American Airlines, Inc.
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